

REMARKS

Applicant has carefully considered the December 9, 2004 final Office Action, and the amendments above together with the comments that follow are presented in a bona fide effort to address all issues raised in that Action and thereby place this case in condition for allowance. Claims 36-50 were pending in this application, of which claims 36-43 were withdrawn from consideration pursuant to the provisions of 37 C.F.R. § 1.142(b). Claims 46 and 48 have been amended and claims 36-45 and 50 have been canceled.

Applicant submits that by the present Amendment and Remarks, this application is placed in clear condition for immediate allowance. At the least, the present amendments reduce the number of issues, thereby placing this application in better condition for Appeal. Accordingly, entry of the present Amendment and Remarks, and favorable consideration are solicited.

Applicant submits concurrently herewith, a courtesy copy of the three documents cited on the October 17, 2003 Information Disclosure Statement (IDS) which were not considered by the Examiner. A courtesy copy of the IDS and PTO-1449 are also attached. It is noted that Applicant forwarded a courtesy copy of these references together with the Amendment previously submitted on September 27, 2004. As indicated in the IDS, copies of these references were submitted to the U.S. Patent and Trademark Office in parent application Serial No. 09/866,516, filed May 29, 2001, which was relied upon for an earlier filing date under 35 U.S.C. § 120. Therefore, the Examiner is requested to consider these documents and forward Applicant an appropriately initialed copy of form PTO-1449 with the next Office communication.

Claim 50 was rejected under the first paragraph of 35 U.S.C. § 112. Applicant respectfully traverses the rejection. Claim 50 has been canceled and, therefore, the rejection is moot.

Claims 44-46 and 48-49 were rejected under 35 U.S.C. § 102(b) as being anticipated by IIT Research Institute Z93-P Thermal Control Coating Kit (MSDS). Claims 44-45 have been canceled and, therefore, the rejection is moot with respect to these claims. Moreover, claims 46, 48 and 49 are free from the applied art for the reasons outlined below.

Claims 44-46 and 48-49 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Babel et al. (U.S. Pat. No. 5,296,285, hereinafter "Babel"). Claims 44-45 have been canceled and, therefore, the rejection is moot with respect to these claims. Moreover, claims 46, 48 and 49 are free from the applied art for the reasons outlined below.

Applicant has amended independent claim 48 (reflective water soluble paint) to recite the amount of the propionic acid. Amended claim 48 recites in pertinent part, a pigment consisting essentially of uncalcined zinc-oxide pigment and 1/2% by weight of propionic acid. Applicant submits that the foregoing claim amendment is consistent with the Examiner's indication of allowable subject matter, as stated in the Office action dated May 26, 2004 and, thereby, place this case in condition for allowance. Applicant submits that neither reference relied upon by the Examiner, teaches or suggests a reflective water soluble paint, comprising in pertinent part, a pigment consisting essentially of uncalcined zinc-oxide pigment and 1/2% by weight of propionic acid. The dependency of claim 46 has been amended to depend from previously allowed claim 47. Accordingly, for the foregoing reasons, the Examiner is requested to reconsider and withdraw the rejections of claims 46, 48 and 49 under 35 U.S.C. §§ 102 and 103.

It is believed that claims 46-49 are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck

Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:idw
Facsimile: 202.756.8087
Date: February 18, 2005

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